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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Amendment to the Commission's)
Rules to Establish New Personal)
Communications Services)

GEN Docket No. 90-314
ET Docket No. ~~90-314~~

To: The Commission

COMMENTS OF THE BUSINESS SOFTWARE ALLIANCE
IN SUPPORT OF EMERGENCY PETITION

I. INTRODUCTION

The Business Software Alliance ("BSA") submits these comments to express strong support for the recommendations contained in the Emergency Petition which was filed by Apple Computer, Inc. in the above-referenced proceeding on September 13, 1993. The Petition recommends a comprehensive regulatory structure for unlicensed PCS in the 2 GHz emerging technologies band. The recommendations build upon the FCC's own proposals and are designed to accommodate all unlicensed PCS products without harming either the private microwave licensees who already use this band or those who want to provide licensed PCS services in the band.

The computer software industry is one of the greatest success stories in recent history, representing one of the fastest growing segments of the U.S. economy. In fact, from 1982 to 1992, the U.S. software industry grew by 269 percent while the remainder of the economy increased about 30 percent. The BSA, representing approximately 75 percent of the world's software published by U.S.-based companies, promotes the continued growth of the software industry

through its global public policy, education, and enforcement programs designed to eradicate software piracy. Its worldwide members include Aldus, Apple Computer, Autodesk, Borland International, Computer Associates, Lotus Development, Microsoft, Novell, and WordPerfect. BSA and its members are concerned about the wireless data personal communications services issue currently pending at the Federal Communications Commission.

BSA supports Apple's entire package of recommendations since they are designed to accommodate the interests of all parties affected by this proceeding. BSA's comments highlight three proposals contained in Apple's comprehensive plan that are crucial to the development of Data-PCS from the perspective of the software industry. The Commission must understand that unless each of these proposals is included in the unlicensed PCS rules scheduled to be adopted next week, Data-PCS will not become a reality in the foreseeable future.

II. DISCUSSION

(A) The Commission Must Create A Separate Allocation For The Exclusive Use Of Data-PCS.

The single most important decision that the Commission must make is to allocate a portion of the emerging technologies band exclusively to Data-PCS. Manufacturers of wireless PBXs and other devices which operate within localized environments often can share frequencies through frequency coordination with other PCS services -- both licensed and unlicensed. However, Data-PCS devices are "nomadic." That is, they can be sold to anyone and used anywhere within the United States. Since Data-PCS, by its

very nature, operates in a widely dispersed environment, it is technologically impossible for Data-PCS devices to share frequencies with any other user, including any other type of unlicensed PCS device. Without an exclusive allocation for Data-PCS devices, the Data-PCS industry will be stillborn.

(B) The Allocation For Data-PCS Must Be Established In The 1910-1930 MHz Band.

Since Data-PCS cannot share spectrum with any other user, including existing microwave users, those providing Data-PCS must pay to relocate or retune all existing users of the Data-PCS band under spectrum clearance regulations that will be adopted in Docket 92-9. It is anticipated that manufacturers of Data-PCS will be able to absorb these costs if Data-PCS is allowed to operate in the 1910-1930 MHz band since this is the part of the emerging technologies band that is least crowded. Data-PCS may not be able to withstand these costs if it must operate in other more crowded segments of the emerging technologies band.

(C) A Portion Of The Emerging Technologies Band Should Be Reserved Temporarily For Use By Private Microwave Licensees.

As the 2 GHz band is gradually occupied by new technologies, many of the routine interference avoidance tools which are used today will not be feasible. In order to provide engineers with maximum flexibility to employ co-channel and adjacent channel interference-avoidance techniques between microwave incumbents and PCS users, at least two 10 MHz channels should be reserved temporarily at 2 GHz to accommodate certain microwave licensees during the transition to PCS.

III. CONCLUSION

The continued growth of our nation's computer industry may depend upon the establishment of rules and policies that will foster, rather than inhibit, the development of Data-PCS. The BSA respectfully urges the Commission to adopt the proposals set forth in Apple Computer, Inc.'s Emergency Petition.

Respectfully submitted,



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Dated: September 15, 1993

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing letter from the Business Software Alliance in support of Apple Computer, Inc.'s Emergency Petition was served via first-class, postage-prepaid mail, or by hand delivery where indicated by an asterisk (*), on this 15th day of September 1993, to the parties listed below:

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